



CITY OF MEMPHIS

COUNCIL AGENDA

December 15, 2009

Public Session Tuesday, 3:30 p.m.

Council Chambers, First Floor, City Hall

125 North Main Street

Memphis, Tennessee 38103-2017

CALL TO ORDER by the Sergeant-at-Arms

INVOCATION

PLEDGE OF ALLEGIANCE

CALL OF ROLL by the Comptroller

APPROVAL OF PREVIOUS MEETING MINUTES (December 1, 2009)

ANNOUNCEMENT FOR APPEARANCE CARDS FOR PUBLIC SPEAKING

ITEMS HELD OR DROPPED FROM THE AGENDA

PRESENTATIONS AND RECOGNITION OF VISITORS

1. RESOLUTION approving an honorary street name change of Mt. Olive Street for Bishop E. H. and Emma Ware.

Ware

ACTION REQUESTED: Adopt the resolution

2. RESOLUTION commending Anaya Suggs whose heroic actions saved the lives of her family members.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

PUBLIC HEARINGS

3. RESOLUTION approving a planned development located on the southeast corner of South Cooper and Cowden Avenue, containing 0.47 acre (20,430 sq. ft.) in the Highway Commercial (C-H) and Duplex Residential (R-D) Districts.

Morrison

Case No. PD 09-321

Applicant: Memphis Builders' Exchange
Powers-Hill Design, LLC – Representative

Request: Planned development to combine two (2) adjacent parcels to allow additional parking at the east side of the building

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

83 NOTICES WERE MAILED ON DECEMBER 4, 2009

4. RESOLUTION approving a planned development located on the west side of Hacks Cross Road +/-225' @ T & B Boulevard, containing 5,500 sq. ft. of 6.18 acres and is currently governed by Fieldstone Planned Development, 2nd Amendment (P.D. 08-337).

Morrison

Case No. PD 09-324

Applicant: Tower Ventures V, LLC
Prime Development Group, Inc. – Representative

Request: Planned development amendment to Parcel 'C' to allow a cellular communications tower one-hundred fifty (150) feet in height designed as a flag pole to be located to the rear of Players Crossing Shopping Center

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

28 NOTICES WERE MAILED ON DECEMBER 4, 2009

5. RESOLUTION approving a planned development located on the northeast corner of Whitten Road and Captains Rite Cove, containing 1.53 acres in PD 03-347.

Morrison

Case No. PD 09-325

Applicant: Scott D. Marshall

Request: Automotive Sales and Service

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Take whatever action Council deems advisable

87 NOTICES WERE MAILED ON DECEMBER 4, 2009

DIVISION OF PLANNING & DEVELOPMENT (None)

ZONING ORDINANCES – THIRD AND FINAL READING (None)



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CONSENT AGENDA

GENERAL ORDINANCE - FIRST READING (None)

GENERAL ORDINANCE - SECOND READING

6. **ORDINANCE** to amend Chapter 25, Section 15-181 so as to revise and clarify sections of the pension and retirement plan, up for S E C O N D reading.

Flinn

Ordinance No. 5341

ACTION REQUESTED: Adopt the ordinance on Second reading

ZONING ORDINANCE - FIRST READING

7. **ORDINANCE** rezoning the northwest corner of North Bellevue and Smith Avenue, containing 0.26(11,325.60 sq. ft.) in the Local Commercial (C-L) District, up for F I R S T reading.

Morrison

Ordinance No. 5342

Case No. Z 09-107

Applicant: Wolf River Site Development, LLC

Request: Highway Commercial (C-H) District

LUCB and OPD recommendation: REJECTION

ZONING ORDINANCES - SECOND READING

8. **ORDINANCE** rezoning the southwest corner of Shelby Drive and Riverdale Road, containing +1.75 acres in the Multiple Dwelling Residential (R-ML) District, up for S E C O N D reading.

Morrison

Ordinance No. 5339

Case No. Z 09-105

Applicant: Capleville United Methodist Church
SR Consulting, LLC (Cindy Reaves) – Representative

Request: Planned Commercial (C-P) with a site plan for a CVS Pharmacy

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Adopt the ordinance on Second reading

9. **ORDINANCE** to amend the text of the Zoning Ordinance. The following item was heard and unanimously approved by the Land Use Control Board on November 12, 2009, up for S E C O N D reading.

Morrison

Ordinance No. 5340
Case No. ZTA 09-002cc

Request: Amend the Memphis and Shelby County Zoning Ordinance Regulations as follows:

1. Amend Appendix A, Zoning Section 2 to add new definitions for “Family Recreation Center” and “Park”.
2. Amend Chart I, Footnote 18, requiring adult entertainment to be located a minimum distance of 1,500 feet from certain identified uses to add “Family Recreation Center” as one of the identified uses.

LUCB and OPD recommendation: APPROVAL

ACTION REQUESTED: Adopt the ordinance on Second reading

ENGINEERING

10. **RESOLUTION** accepting NATIONAL RENAL ALLIANCE DIALYSIS CENTER MEMPHIS SOUTH STREET AND DRAINAGE IMPROVEMENTS, and authorizing release of bond.

(Contract No. CR-5125)

Resolution accepts completion of the improvements and the dedication of public streets and easements as shown on the final plat located east of Elvis Presley Blvd., south of East Raines Road. The standard improvement contract was approved on September 6, 2005. Resolution also authorizes the release of the letter of credit in the amount of \$94,000.00.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

11. **RESOLUTION** approving final plat of HOPE SUBDIVISION.

Case No. S 09-001

Resolution approves the final plat located at the south east corner of Overton Crossing Road and Pamela Street.

City Engineer recommends approval

ACTION REQUESTED: Adopt the resolution

NOTATIONS FROM OPD

12. **NOTATIONS** from Land Use Control Board that the following cases were heard and recommendation made requesting a date of public hearing:

A. Case No. UV 09-06

Located on the south side of Faxon Avenue; +/-472.60 feet east of National Street, containing 0.229 acre in the Duplex Residential (R-D) District

Applicant: Mid-South Outlet Store/Dee Bradford, Terry Neuenschwander
Bill Fuller – Representative

Request: A use variance for a new parking lot to serve 3432 Summer Ave.

LUCB and OPD recommendation: REJECTION

B. Case No. PD 09-323CC – VILLAGES OF BENNINGTON PLANNED
DEVELOPMENT, 3RD AMENDMENT

Located on the east side of Riverdale Road; +/-395.66 feet north of Holmes Road, containing 0.74 acre (32,234 sq. ft.) and is currently governed by Villages of Bennington Planned Development, 2nd Amendment (P.D. 02-332cc)

Applicant: Arnett CarWash, LLC
Prime Development Group, Inc. – Representative

Request: Plan amendment to allow outdoor vending for an ice house facility

LUCB and OPD recommendation: APPROVAL, with conditions

ACTION REQUESTED: Set a date of public hearing

SUGGESTED DATE: January 12, 2010



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MLGW FISCAL CONSENT

13. RESOLUTION awarding Contract No. 11364, Horizontal Earth Bore Under Railroad, to Memphis Road Boring Company, Inc. in the funded amount of \$218,080.00.
14. RESOLUTION approving Change No. 3 to Contract No. 11186, Environmental Abatement Services, with General Construction Services, Inc. in the funded amount of \$9,580,000.00. (This change renews the contract for the second, third and fourth renewal terms, December 10, 2009 to December 9, 2012, with no increase in rates over the three-year period).
15. RESOLUTION approving Change No. 2 to Contract No. 11148, Professional Engineering Services, with SSR Ellers, Inc. in the funded amount of \$171,800.00. (This change renews the contract for the second of four renewal terms, January 1, 2010 to December 31, 2010, with no increase in rates. It also includes the design of seismic upgrades at the Water Lab and Morton Pumping Station, customer service building at Hickory Hill, surveying building at Brunswick Service Center, roof design at Sheahan Pumping Station, emergency generator for the North Community Office, Lamar Community Office and Hickory Hill Service Center, the facilities master plan, and automated fuel management at the North Service Center).
16. RESOLUTION approving Change No. 2 to Contract No. 11229, Professional Engineering Services, with Allen and Hoshall Engineers, in the funded amount of \$109,300.00. (This change renews the contract for the second of four renewal terms, January 1, 2010 to December 31, 2010. It also includes the design of ethanol tanks at North Service Center and Central Shops, and the design of wash water recovery basin at Lichterman Pumping Station).
17. RESOLUTION approving Change No. 2 to Contract No. 11230, Professional Engineering Services, with Thompson Engineers, Inc. in the funded amount of \$37,000.00. (This change renews the contract for the second of four renewal terms, January 1, 2010 to December 31, 2010, with no increase in rates. It also covers the design of the odorize building at Airways Gate Station, design of ventilation system at Mallory Pumping Station, Hickory Hill Service Center, and the North Service Center).
18. RESOLUTION approving Change No. 2 to Contract No. 11231, Professional Engineering Services, with Branham and Lloyd, LLC, in the funded amount of \$56,000.00. (This change renews the contract for the second of four renewal terms, January 1, 2010 to December 31, 2010, with no increase in rates. It also includes the design of UPS Upgrade at Netters Business Center, Security Gate at North Service Center, and VAV re-heat boxes at Beale Street Landing Garage).
19. RESOLUTION awarding 36-month contract for office supplies to OfficeMax in an amount not to exceed \$1,468,120.41.

20. RESOLUTION approving payment of 2010 membership dues to the American Gas Association in the amount of \$49,039.00.
21. RESOLUTION approving employment of the Hunt Law Firm on an as-needed basis at agreed-upon hourly rates.
22. RESOLUTION approving employment of Leach, Johnson, Song and Gruchow for legal services on an as-needed basis at agreed-upon hourly rates.



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REGULAR AGENDA

GENERAL ORDINANCES -THIRD AND FINAL READING

23. **ORDINANCE** to revise Chapter 15, Section 15-11(d), of the City of Memphis Code of Ordinances, pertaining to the dimensions of Limbs and Logs collected by the City of Memphis, up for T H I R D and F I N A L reading. (Held from 10/20; 11/3;11/17)

Boyd

Ordinance No. 5329

Director of Public Works recommends approval

ACTION REQUESTED: Take whatever action Council deems advisable

24. **ORDINANCE** fixing Tax Rate of the City of Memphis for the Board of Education of the Memphis City Schools, up for T H I R D and F I N A L reading. (Held from 7/7; 7/21; 8/4; 8/18; 9/1; 9/15; 10/6; 11/3; 11/17; 12/1)

Lowery

Ordinance No. 5319

ACTION REQUESTED: Take whatever action Council deems advisable

25. **ORDINANCE** to amend Cable Franchise Ordinance No. 4159, extending the Franchise Ordinance as amended, up for T H I R D and F I N A L reading. (Held from 12/1)

Boyd

Ordinance No. 5331

ACTION REQUESTED: Take whatever action Council deems advisable

26. **ORDINANCE** to establish meeting dates for City Council Meetings in 2010, up for T H I R D and F I N A L reading.

Collins

Ordinance No. 5338

ACTION REQUESTED: Take whatever action Council deems advisable

ENGINEERING DIVISION (None)

EXECUTIVE DIVISION (None)

FINANCE & ADMINISTRATION

27. **RESOLUTION** designating areas in the City of Memphis as "Recovery Zones" for the purpose of issuing Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds.

Ford

ACTION REQUESTED: Adopt the resolution

DIVISION OF FIRE SERVICES (None)

DIVISION OF GENERAL SERVICES

28. RESOLUTION amending the FY10 Capital Improvement Project#GS0210E to change the equipment originally submitted. There is no change in the approved budget.

Boyd

ACTION REQUESTED: Adopt the resolution

DIVISION OF HOUSING AND COMMUNITY DEVELOPMENT

29. RESOLUTION authorizing sale of the following City owned parcels to participants of Diversity Developer Incubator Initiative: Jackson Avenue & North Dunlap Street – (027026 00012) & (027026 00013) – Downtown/Medical District, in the amount of \$1.00.

Ford

ACTION REQUESTED: Adopt the resolution

30. RESOLUTION allowing the City of Memphis to recoup the cost of providing improvements, facilities, and essential services to certain tax exempt multi family facilities as authorized under Tennessee Code Annotated §67-5-207.

Ford

ACTION REQUESTED: Adopt the resolution

DIVISION OF HUMAN RESOURCES (None)

LAW DIVISION (None)

MLGW DIVISION (None)

PARK SERVICES

31. RESOLUTION approving the Division of Park Services to appropriate \$203,904.00 of the total allocation approved by the Council in the Fiscal Year 2009 CIP Budget in Contract Construction for M. L. King Restrooms, CIP Project Number PK07102, funded by Martin Luther King Jr., Park Improvements, Fund 0219, for the construction of the M. L. King Restrooms.

Strickland

ACTION REQUESTED: Adopt the resolution

32. RESOLUTION approves the Division of Park Services to fund \$659,923.00 of the total appropriation approved by the Council on June 16, 2009 in Contract Construction in Golf Irrigation Improvements, CIP Project Number PK06006, funded by G.O. Bonds General, for the construction of the Pump Station Improvements at Audubon and Pine Hill Golf Courses and Irrigation Improvements at Audubon and Pine Hill Golf Courses.

Strickland

ACTION REQUESTED: Adopt the resolution

DIVISION OF POLICE SERVICES

33. RESOLUTION accepting grant funds from the Department of Justice (DOJ), Bureau of Justice Assistance FY 08 Bulletproof Vests Partnership (BVP 2008) in the amount of \$16,761.04. Resolution also amends the FY 2010 Operating Budget to establish and appropriate \$16,761.04 in grant funds.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

34. RESOLUTION accepting grant funds from the Governor's Highway Safety Office (GHSO) of the State of Tennessee Department of Transportation in the amount of \$19,960.98. Resolution also amends FY 2010 Operating Budget to establish and appropriate \$19,960.98 in grant funds for FY 2010.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

35. RESOLUTION accepting grant funds from the Allstate Insurance Company – Teen Driving Program in the amount of \$36,000.00. Resolution also amends FY 2010 Operating Budget to establish and appropriate \$36,000.00 in grant funds.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

36. RESOLUTION accepting grant funds from the Governor's Highway Safety Office (GHSO) of the State of Tennessee Department of Transportation in the amount of \$74,482.45. Resolution also amends FY 2010 Operating Budget to establish and appropriate \$74,482.45 in grant funds for FY 2010.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

37. RESOLUTION accepting grant funds from the Department of Justice (DOJ), Bureau of Justice Assistance FY 09 Bulletproof Vests Partnership (BVP 2009) in the amount of \$63,694.03. Resolution also amends the FY 2010 Operating Budget to establish and appropriate \$63,694.03 in grant funds.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

38. RESOLUTION accepting grant funds from the Governor's Highway Safety Office (GHSO) of the State of Tennessee Department of Transportation in the amount of \$702,318.08. Resolution also amends the FY 2010 Operating Budget to establish and appropriate \$702,318.08 in grant funds for FY 2010.

Hedgepeth

ACTION REQUESTED: Adopt the resolution

DIVISION OF PUBLIC SERVICES

39. RESOLUTION establishing a fund to accept donations solely for use of the operations and programs of the Animal Shelter.

Brown

ACTION REQUESTED: Adopt the resolution

40. RESOLUTION amending the FY10 Operating Budget by accepting grant funds in the amount of \$10,000.00 from Guilmenot Consulting, Inc. for the Office of Youth Services and Community Affairs' Summer Youth Achieve Program.

Brown

ACTION REQUESTED: Adopt the resolution

41. RESOLUTION approving a lease agreement with Dewayne Hendrix, D/B/A Two-Way Gin Company, Inc., as approved by the Board of Commissioners of the Memphis and Shelby County Port Commission on September 23, 2009.

Collins

Contract No. CR-5150

ACTION REQUESTED: Adopt the resolution

42. RESOLUTION approving a lease agreement with Kinder Morgan River Terminals LLC, as approved by the Board of Commissioners of the Memphis and Shelby County Port Commission on September 23, 2009.

Collins

Contract No. CR-5151

ACTION REQUESTED: Adopt the resolution

43. RESOLUTION approving a lease/purchase agreement with Nucor Steel Memphis, Inc., as approved by the Board of Commissioners of the Memphis and Shelby County Port Commission on September 23, 2009.

Collins

Contract No. CR-5152

ACTION REQUESTED: Adopt the resolution

DIVISION OF PUBLIC WORKS

(None)

APPEARANCE CARDS FOR PUBLIC SPEAKING

ADJOURNMENT

ADD-ONS

44. RESOLUTION approving a hotel waiver for Hampton Inn and Suites at Beale Street, located at 175 Peabody Place.

Morrison

ACTION REQUESTED: Adopt the resolution

45. **APPOINTMENTS**

Flinn

Chief Administrative Officer

Appointment

George Little

City of Memphis Board of Ethics

Appointments

Mark Chambers
Robert T. Dawkins
Carol K. George
Vaness M. Harvey
Alicia Howard
The Honorable Robert A. Lanier
Ruth A. Pollard
Pete Scatamacchia

46. RESOLUTION modifying the Bass Pro Development Agreement to remove all references to Shelby County Government therein, to extend the development period to March 31, 2010, and to amend and increase the Pyramid Redevelopment budget line in the amount of \$105,000.00 by increasing the amount of revenue from Contract #25189 by \$105,000.00.

Ford

ACTION REQUESTED: Adopt the resolution

47. RESOLUTION authorizing the services of Relman and Dane, PLLC in legal proceedings related to foreclosures in Memphis and Shelby County.

Collins

ACTION REQUESTED: Adopt the resolution

ADD-ONS

48. TECHNICAL CORRECTION ORDINANCE for clerical errors on ordinances previously passed and signed, but not yet codified as follows: Ordinance No. 5223, Sell of Beer off Premises, Ordinance No. 5317, Inspection of Motor Vehicles and Ordinance No. 5327, Board of Ethics Membership Requirements, up for F I R ST reading.

Collins

Ordinance No. 5343

ACTION REQUESTED: Adopt the ordinance on First reading

ACTION TAKEN BY COUNCIL ON THIS DATE

1. Approved
2. Held to January 12, 2010
3. Through 11 – Approved
12. Public Hearing set for January 12, 2010
13. Through 23 – Approved
24. The City Council Meeting was recessed until December 16, 2009
25. Held to January 26, 2010
26. Through 45 – Approved
46. Approved, as amended
47. and 48 – Approved

ACTION TAKEN BY COUNCIL ON THE MINUTES OF DECEMBER 1, 2009

Approved

ACTION TAKEN BY COUNCIL ON THE MINUTES OF DECEMBER 15, 2009 FOR ITEMS 44-47 ONLY:

Approved